

UNITED STATES OF AMERICA  
POSTAL REGULATORY COMMISSION  
WASHINGTON, DC 20268-0001

Before Commissioners:

Michael Kubayanda, Chairman;  
Ashley E. Poling, Vice Chairwoman;  
Mark Acton;  
Ann C. Fisher; and  
Robert G. Taub

Competitive Product Prices  
Inbound Competitive Multi-Service Agreements with  
Foreign Postal Operators  
Interconnect Remuneration Agreement –  
United States Postal Service and  
Specified Postal Operators II (MC2010-34)  
Negotiated Service Agreement

Docket No. CP2022-34

ORDER APPROVING ADDITIONAL  
INBOUND COMPETITIVE MULTI-SERVICE AGREEMENT  
WITH FOREIGN POSTAL OPERATORS

(Issued December 23, 2021)

I. INTRODUCTION

On December 8, 2021, the Postal Service filed a notice with the Commission pursuant to 39 C.F.R. § 3035.105 and Order No. 546,<sup>1</sup> stating that it has entered into an

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<sup>1</sup> Notice of United States Postal Service of Filing Functionally Equivalent Inbound Competitive Multi-Service Agreement with Foreign Postal Operators, December 8, 2021 (Notice). See also Docket Nos. MC2010-34 and CP2010-95, Order Adding Inbound Competitive Multi-Service Agreements with Foreign Postal Operators 1 to the Competitive Product List and Approving Included Agreement, September 29, 2010 (Order No. 546).

Inbound Competitive Multi-Service Agreement with Foreign Postal Operators (FPOs). The Notice concerns the inbound portions of the competitive multi-product Interconnect Remuneration Agreement USPS and Specified Postal Operators II (IRA-USPS II Agreement). Notice at 1, 6. The Postal Service seeks to include the IRA-USPS II Agreement within the Inbound Competitive Multi-Service Agreements with Foreign Postal Operators 1 product. *Id.* at 1.

For the reasons discussed below, the Commission approves the addition of the IRA-USPS II Agreement to the Inbound Competitive Multi-Service Agreements with Foreign Postal Operators 1 product.

## II. BACKGROUND

On December 8, 2021, in accordance with 39 C.F.R. § 3035.105 and Order No. 546, the Postal Service filed its Notice, along with supporting documents. *See id.* at 1, 5. The IRA-USPS II Agreement contains rates for inbound competitive parcels and packets. *Id.* at 6. In the Notice, the Postal Service asserts that the IRA-USPS II Agreement is functionally equivalent to the baseline agreement for the Inbound Competitive Multi-Service Agreements with Foreign Postal Operators 1 product and requests that the agreement be added to the existing Inbound Competitive Multi-Service Agreements with Foreign Postal Operators 1 product. *Id.* at 3. Among the supporting documents, the Postal Service included a copy of the Governors' Decision No. 19-1, the IRA-USPS II Agreement, a ZIP file with FPO-specific information related to the FPOs that are parties to the IRA-USPS II Agreement, a certification of compliance with 39 U.S.C. § 3633(a), and financial workpapers. *Id.* at 5. In addition, the Postal Service submitted an application for non-public treatment of materials requesting that redacted portions of the IRA-USPS II Agreement, customer-identifying information, and related financial information remain under seal. *Id.* Attachment 1.

The IRA-USPS II Agreement is intended to take effect on January 1, 2022 and to continue indefinitely. Notice at 5; *id.* Attachment 2 at 4. The Postal Service states that, beginning with the rates that will be in effect in 2022, any party to the IRA-USPS II

Agreement can change its delivery rates by communicating the new rates to the International Post Corporation by July 15 of the year preceding the rates' application.<sup>2</sup> Additionally, the Postal Service notes that the IRA-USPS II Agreement allows parties to self-declare rates within defined parameters. Notice at 6.

The Postal Service notes that additional FPOs may accede to the IRA-USPS II Agreement and represents that it will update this docket should additional FPOs accede to the agreement. *Id.*; *id.* Attachment 2 at 124. The Postal Service has provided a notice in this docket with an additional signatory to the IRA-USPS II Agreement.<sup>3</sup>

On December 9, 2021, the Commission issued a notice establishing the instant docket, appointing a Public Representative, and providing interested persons with an opportunity to comment.<sup>4</sup> On December 15, 2021, Chairman's Information Request No. 1 was issued, with questions filed under seal.<sup>5</sup> On December 21, 2021, the Postal Service filed revised non-public versions of Attachments 2 and 3 to the Notice,<sup>6</sup> and a

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<sup>2</sup> Errata to Notice of United States Postal Service of Filing Functionally Equivalent Inbound Competitive Multi-Service Agreement with Foreign Postal Operators, December 10, 2021, at Attachment (correcting "1st of July" to "15th of July" as the date by which new rates must be communicated to the International Post Corporation). See Notice at 6.

<sup>3</sup> Notice of United States Postal Service of Filing Accession to Inbound Competitive Multi-Service IRA-USPS II Agreement, December 14, 2021 (Notice of Accession).

<sup>4</sup> Notice and Order Concerning Postal Service Filing of Inbound Competitive Multi-Service Agreement with Foreign Postal Operators, December 9, 2021 (Order No. 6059).

<sup>5</sup> Chairman's Information Request No. 1 and Notice of Filing Under Seal, December 15, 2021 (CHIR No. 1).

<sup>6</sup> Second Errata to Notice of United States Postal Service of Filing Functionally Equivalent Inbound Competitive Multi-Service Agreement with Foreign Postal Operators, December 21, 2021.

revised non-public version of Attachment 1 to the Notice of Accession.<sup>7</sup> On December 22, 2021, the Postal Service filed its response to CHIR No. 1 under seal, which included the filing of updated workpapers and supporting materials.<sup>8</sup>

### III. COMMENTS

The Public Representative filed comments on December 16, 2021.<sup>9</sup> No other comments were received. Based upon a review of the Notice, the IRA-USPS II Agreement, and the financial workpapers, the Public Representative concludes that the IRA-USPS II Agreement is functionally equivalent to the baseline agreement and should meet the requirements of 39 U.S.C. § 3633(a). PR Comments at 2-3. She notes that although the Postal Service's responses to CHIR No. 1 had not been filed as of the comment deadline and are necessary to get an accurate cost estimate, the available information, including the workpapers as presented, are sufficient for her to conclude that the IRA-USPS II Agreement is likely to meet the requirements of 39 U.S.C. § 3633(a) and cover its costs. *Id.* at 3. For these reasons, the Public Representative recommends that the Commission approve the addition of the IRA-USPS II Agreement to the Inbound Competitive Multi-Service Agreements with Foreign Postal Operators 1 product. See *id.* at 2-3.

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<sup>7</sup> Errata to Notice of United States Postal Service of Filing Accession to Inbound Competitive Multi-Service IRA-USPS II Agreement, December 21, 2021.

<sup>8</sup> Responses of the United States Postal Service to Questions 1-5 of Chairman's Information Request No. 1, December 22, 2021 (Response to CHIR No. 1). The Postal Service motioned for late acceptance of Response to CHIR No. 1, noting the "complex nature of the responses and the need to confirm key details with personnel before submitting" the Response to CHIR No. 1. Motion of the United States Postal Service for Late Acceptance of Responses to Chairman's Information Request No. 1, December 22, 2021, at 1 (Motion). The Motion is granted.

<sup>9</sup> Public Representative Comments on Postal Service Notice of Filing Functionally Equivalent Inbound Competitive Multi-Service Agreement with Foreign Postal Operators, December 16, 2021 (PR Comments).

#### IV. COMMISSION ANALYSIS

The Commission's responsibilities in this proceeding are to ensure that the IRA-USPS II Agreement is functionally equivalent to the baseline agreement established for the Inbound Competitive Multi-Service Agreements with Foreign Postal Operators 1 product and satisfies the requirements of 39 U.S.C. § 3633 and applicable Commission rules (39 C.F.R. §§ 3035.105 and 3035.107).

*Functional equivalence.* In Order No. 546, the Commission added the Inbound Competitive Multi-Service Agreements with Foreign Postal Operators 1 product to the competitive product list and established a baseline agreement for assessing the functional equivalence of future agreements proposed for inclusion within the Inbound Competitive Multi-Service Agreements with Foreign Postal Operators 1 product.<sup>10</sup>

The Postal Service asserts that its filing demonstrates that the IRA-USPS II Agreement is functionally equivalent to the baseline agreement, and requests that the agreement be included within the Inbound Competitive Multi-Service Agreements with Foreign Postal Operators 1 product. Notice at 3. It asserts that the IRA-USPS II Agreement fits within the Mail Classification Schedule language for the Inbound Competitive Multi-Service Agreements with Foreign Postal Operators 1 product. *Id.* at 7. The Postal Service also asserts that the IRA-USPS II Agreement and the baseline agreement are materially similar with respect to products and cost characteristics. *Id.* The Postal Service identifies numerous differences between the IRA-USPS II Agreement and the baseline agreement, but asserts that these differences do not affect the fundamental service being offered or the fundamental structure of the agreements.<sup>11</sup>

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<sup>10</sup> See Order No. 546 at 9. The agreement was with Koninklijke TNT Post BV and TNT Post PakketService Benelux BV. *Id.* at 1-2. See also Docket Nos. MC2010-34 and CP2010-95, Request of United States Postal Service to Add Inbound Competitive Multi-Service Agreements with Foreign Postal Operators to the Competitive Product List, and Notice of Filing (Under Seal) of Enabling Governors' Decision and Negotiated Service Agreement, August 13, 2010, Attachment 3; Docket No. CP2011-69, Order Concerning an Additional Inbound Competitive Multi-Service Agreements with Foreign Postal Operators 1 Negotiated Service Agreement, September 7, 2011, at 5 (Order No. 840).

<sup>11</sup> *Id.* at 7-10. Differences include, among others, the number of FPOs party to the agreement and the inclusion of new articles and annexes. *Id.* at 8-9.

The Commission has reviewed the Postal Service's reasons for asserting that the IRA-USPS II Agreement shares similar cost characteristics with the baseline agreement, meets the pricing formula, and falls within the classification established in the Governors' Decision authorizing this product. It also has considered the Public Representative's comments.

The Commission concludes that the IRA-USPS II Agreement is functionally equivalent to the baseline agreement and that the differences between the two agreements do not fundamentally alter either the service the Postal Service will provide under the IRA-USPS II Agreement or the structure of the IRA-USPS II Agreement. The Commission therefore finds that the IRA-USPS II Agreement may be included within the Inbound Competitive Multi-Service Agreements with Foreign Postal Operators 1 product.

*Cost considerations.* The Commission reviews each competitive product to ensure that it covers its attributable costs, does not cause market dominant products to subsidize competitive products as a whole, and contributes to the Postal Service's institutional costs. 39 U.S.C. § 3633(a); 39 C.F.R. §§ 3035.105 and 3035.107. As long as the revenue generated by a product exceeds its attributable costs, the product is unlikely to reduce the contribution of competitive products as a whole or to adversely affect the ability of competitive products as a whole to contribute an appropriate share of institutional costs. In other words, a product that covers its attributable costs is likely to comply with 39 U.S.C. § 3633(a).

The Commission has reviewed the Postal Service's filing, including supporting financial analyses provided under seal, the Response to CHIR No. 1, and the Public Representative's comments. Based on this review, the Commission finds that the IRA-USPS II Agreement should cover its attributable costs. Therefore, the addition of the IRA-USPS II Agreement to the Inbound Competitive Multi-Service Agreements with Foreign Postal Operators 1 product should not cause cost coverage for the product to fall below 100 percent. Consequently, the Commission finds that the addition of the IRA-USPS II Agreement to the Inbound Competitive Multi-Service Agreements with

Foreign Postal Operators 1 product should allow the product to continue to comply with 39 U.S.C. § 3633(a)(2). Because it finds that the addition of the IRA-USPS II Agreement to the Inbound Competitive Multi-Service Agreements with Foreign Postal Operators 1 product should allow the product to cover its attributable costs, the Commission finds that the addition of the IRA-USPS II Agreement to the product should not result in competitive products as a whole being subsidized by market dominant products, in accordance with 39 U.S.C. § 3633(a)(1). Similarly, the Commission finds the addition of the IRA-USPS II Agreement to the Inbound Competitive Multi-Service Agreements with Foreign Postal Operators 1 product is unlikely to prevent competitive products as a whole from contributing an appropriate share of institutional costs, consistent with 39 U.S.C. § 3633(a)(3). Accordingly, a preliminary review of the IRA-USPS II Agreement indicates that it is consistent with section 3633(a). The Commission will review the cost coverage of the IRA-USPS II Agreement, the cost coverage of the Inbound Competitive Multi-Service Agreements with Foreign Postal Operators 1 product, and the contribution of competitive products as a whole to the Postal Service's institutional costs in the Annual Compliance Determination to ensure that they continue to comply with 39 U.S.C. § 3633(a).

*Other considerations.* The IRA-USPS II Agreement is intended to take effect on January 1, 2022 and to continue indefinitely. Notice at 5; *id.* Attachment 2 at 4. The Postal Service shall promptly notify the Commission should there be a change in the effective date of the IRA-USPS II Agreement. If the agreement is terminated, the Postal Service shall promptly file notice of such termination with the Commission in this docket.

V. ORDERING PARAGRAPHS

*It is ordered:*

1. The IRA-USPS II Agreement filed in Docket No. CP2022-34 is included within the Inbound Competitive Multi-Service Agreements with Foreign Postal Operators 1 (MC2010-34) product. The revision to the Mail Classification Schedule appears below the signature of this Order and is effective January 1, 2022.
2. The Postal Service shall promptly notify the Commission should there be a change in the effective date of the IRA-USPS II Agreement.
3. The Postal Service shall promptly file notice with the Commission in this docket if the IRA-USPS II Agreement is terminated.

By the Commission.

Erica A. Barker  
Secretary



## CHANGES TO THE MAIL CLASSIFICATION SCHEDULE

The following material represents a change to the Mail Classification Schedule. The Commission uses two main conventions when making changes to the Mail Classification Schedule. New text is underlined. Deleted text is struck through.

### **Part B—Competitive Products** **2000 Competitive Product List**

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#### **2500                    Negotiated Service Agreements**

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#### **2515                    Inbound International**

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#### **2515.10                Inbound Competitive Multi-Service Agreements with Foreign Postal Operators**

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#### **2515.10.5            Products Included in Group (Agreements)**

Each product is followed by a list of agreements included within that product.

- Inbound Competitive Multi-Service Agreements with Foreign Postal Operators 1

##### *Baseline Reference*

Docket Nos. MC2010-34 and CP2010-95

PRC Order No. 546, September 29, 2010

##### *Included Agreements*

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Interconnect Remuneration Agreement USPS and Specified Postal Operators II, expires TBD

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